

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Kelvin Laneil James,

Petitioner

v.

Julie Williams, et al.,

Respondents

Case No. 2:25-cv-00175-CDS-BNW

Order Dismissing Petition Without  
Prejudice

[ECF No. 1-1]

Petitioner Kelvin Laneil James, a pro se Nevada prisoner, filed a petition for writ of habeas corpus under 28 U.S.C. § 2254. ECF No. 1-1. James has not properly commenced this habeas action by paying the standard \$5.00 filing fee or filing an application for leave to proceed *in forma pauperis* (“IFP”). Upon initial review of this matter, I dismiss this action as premature.

A federal court will not grant a state prisoner’s petition for habeas relief until the prisoner has exhausted his available state remedies for all claims raised. *See Rose v. Lundy*, 455 U.S. 509 (1982); 28 U.S.C. § 2254(b). A petitioner must give the state courts a fair opportunity to act on each of his claims before he presents those claims in a federal habeas petition. *See O’Sullivan v. Boerckel*, 526 U.S. 838, 844 (1999); *see also Duncan v. Henry*, 513 U.S. 364, 365 (1995). A claim remains unexhausted until the petitioner has given the highest available state court the opportunity to consider the claim through direct appeal or state collateral review proceedings. *See Casey v. Moore*, 386 F.3d 896, 916 (9th Cir. 2004); *Garrison v. McCarthy*, 653 F.2d 374, 376 (9th Cir. 1981).

James is serving a sentence of 96 to 240 months for a conviction for voluntary manslaughter with use of a deadly weapon under a judgment entered by the Eighth Judicial District Court in Clark County, Nevada, in October of 2016.<sup>1</sup> James’s federal petition alleges he is

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<sup>1</sup> I take judicial notice of James’s other cases brought in this Court under 28 U.S.C. § 2254: Case No. 2:24-cv-00286-ART-CSD; Case No. 2:24-cv-01652-RFB-NJK (dismissed as duplicative); Case No. 2:24-cv-02402-APG-EJY (dismissed on January 1, 2025). I further take judicial notice of James’s prisoner-related cases: Case No. 2:24-cv-00740-RFB-BNW (terminated on December 12, 2024); Case No. 2:24-cv-00889-JAD-BNW; Case No. 2:24-cv-01871-JAD-BNW; Case No. 2:24-cv-02200-GMN-DJA; and Case No. 2:25-cv-00082-ART-NJK.

1 entitled to the application of “good time” credits toward his minimum sentence under the state  
2 statutes applicable at the time of his offense and denial of the credits violates the Ex Post Facto  
3 Clause of the Constitution. ECF No. 1-1 at 3 (citing *Weaver v. Graham*, 450 U.S. 24, 28 (1981)).

4 It appears that James is presently pursuing his challenge to the computation of his  
5 credits in the state courts. James filed a state postconviction petition for writ of habeas corpus  
6 challenging the computation of time, appealed the denial of that petition, and briefing for the  
7 appeal is apparently underway.<sup>2</sup> The resolution of James’s challenge to the computation of time in  
8 his state postconviction proceedings could render any federal petition moot. Therefore, I will  
9 dismiss the petition without prejudice to James filing a new petition, with a new case number,  
10 accompanied by either the filing fee or a complete *IFP* application.<sup>3</sup>

11 I therefore order that petitioner Kelvin Laneil James’s petition for writ of habeas corpus  
12 under 28 U.S.C. § 2254 [ECF No. 1-1] is **dismissed without prejudice**.

13 I further order that a Certificate of Appealability is denied as jurists of reason would not  
14 find the dismissal debatable or wrong.

15 I further order that the Clerk of Court (1) add Aaron D. Ford, Nevada Attorney General,  
16 as counsel for respondents; (2) file and electronically serve the petition (ECF No. 1-1) on  
17 respondents, for informational purposes only; and (3) close this case.

18 Dated: February 4, 2025

19   
20 Cristina D. Silva  
21 United States District Judge  
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27 <sup>2</sup> I take judicial notice of the publicly-available dockets for the Eighth Judicial District Court in Clark  
28 County, Nevada, Case No. A-24-896896-W, Click here for the case information search page, and the  
Supreme Court of Nevada, Case No. 89634, 89634: Case View.

<sup>3</sup> I make no determination whether James’s claims in his Petition are cognizable or whether he can  
overcome potentially applicable procedural bars to a federal writ of habeas corpus should the state courts  
deny relief.